STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of B.M.N-W., D.C.B.W., and C.M.N-W., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SHARISSA WILLIAMS,

Respondent-Appellant,

and

DUANE HATCH, RONALD VINCENT, and WALLACE CLEVON NEWELL, JR.,

Respondents.

UNPUBLISHED
February 25, 2003

No. 242685
Washtenaw Circuit Court
Family Division
LC No. 00-024986-NA

Before: O'Connell, P.J., and Fitzgerald and Murray, JJ.

PER CURIAM.

Respondent appeals the trial court's order terminating her parental rights to her children pursuant to MCL 712A.19b(3)(g) and (j).[1] We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Respondent first argues that the grounds relied on by the trial court to terminate her parental rights were not proven by clear and convincing evidence. We disagree. We review a trial court's decision to terminate parental rights for clear error. MCR 5.974(I); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that the petitioner has

[1] The trial court's order also terminated the parental rights of respondents Duane Hatch, the putative father of D.C.B.W., Ronald Vincent, the putative father of C.M.N-W., and Wallace Clevon Newell, Jr., the putative father of B.M.N-W. Respondents Hatch, Vincent, and Newell have not appealed the order.

proven by clear and convincing evidence the existence of one or more statutory grounds for termination, the court must terminate parental rights unless it finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000).

In this case, respondent's children were removed from her care after she left them unattended, admitted that she had left them unattended in the past, and was evicted from the shelter where she and her children had been living. Respondent's children were subsequently returned to her care, but remained temporary court wards under the supervision of petitioner the Family Independence Agency. Respondent's children were subsequently removed again after respondent's continued difficulty in securing adequate housing and the occurrence of domestic violence in the presence of the children.

The caseworker provided respondent with a parent-agency agreement designed to assist respondent in improving her parenting abilities. Respondent only partially complied with the agreement. She obtained and maintained employment and eventually secured housing. Respondent also attended parenting classes; however, she failed to demonstrate sufficient improvement in her parenting skills. Respondent also failed to comply with anger management classes and did not participate in counseling until after the caseworker recommended that respondent's parental rights be terminated.

Based on this evidence, the trial court did not clearly err in finding that termination of respondent's parental rights was warranted on the grounds that respondent failed to provide proper care or custody for the children and could not be expected to do so within a reasonable time, MCL 712A.19b(3)(g), and that there was a reasonable likelihood that the children would be harmed if returned to respondent's custody, MCL 712A.19b(3)(j). Further, the evidence did not show that termination of respondent's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *Trejo, supra*.

Respondent next argues that her due process rights were violated when the trial court failed to hold the termination hearing before a judge. We disagree. Pursuant to MCR 5.912(B), a party to a termination proceeding may demand that a judge rather than a referee serve as the finder of fact by filing a written demand with the court within a specified time frame.

In this case, respondent asked to address the court at the conclusion of the permanency planning hearing. The court obliged respondent's request and respondent proceeded to make a statement. During her statement, respondent said that she would like to "see the head judge" and that she did not want to be "represented by the referee judge." Respondent was advised at that time to speak to her counsel regarding her desire to see the judge; however, respondent failed to do so. Respondent argues on appeal that her oral statement at the hearing satisfied the requirements of the rule and that a written demand for a judge was unnecessary. We disagree.

The principles of statutory interpretation apply to the interpretation of court rules. *Hinkle v Wayne Co Clerk*, 467 Mich 337, 340; 654 NW2d 315 (2002). "When the language is unambiguous, we must enforce the meaning plainly expressed, and judicial construction is not permitted." *Id*. Here, the plain meaning of the rule is that a demand for a judge must be in writing. MCR 5.912(B). Because no written request was made, the trial court did not err by holding the termination hearing before a referee.

Affirmed.

/s/ Peter D. O'Connell
/s/ E. Thomas Fitzgerald
/s/ Christopher M. Murray